

IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT  
JODHPUR.

**ORDER**

Dhan Raj.

Versus

State of Rajasthan  
& Anr.

S.B. Criminal Misc. Petition No. 422/2003  
for quashing the criminal proceedings.

...

Date of Order:

October 16, 2006

**PRESENT**

**HON'BLE MR. JUSTICE H.R. PANWAR**

Mr. Devendra Singh, for the petitioner.

Mr. Ashok Upadhyaya, Public Prosecutor for the State.

**BY THE COURT:**

By the instant criminal miscellaneous petition under Section 482 of the Code of Criminal Procedure, 1973 (for short, "the Code" hereinafter), the petitioner seeks quashing of proceedings pending before the Sub-Divisional Magistrate, Gulabpura, district Bhilwara (for short, "the Executive Magistrate" hereinafter), whereby, vide impugned order dated 2.5.2003, the Executive Magistrate, on a complaint filed by the Station House Officer, Police Station, Gulabpura, registered a case under Section 110 of the Code and directed the petitioner to furnish personal bond in the sum of Rs.20,000/- and surety bonds in the sum of Rs.30,000/- to the satisfaction of the

Executive Magistrate for maintaining peace and tranquility and be of good behaviour for a period of one year.

I have heard learned counsel for the petitioner and the Public Prosecutor for the State. Carefully gone through the complaint filed by the Station House Officer, Police Station, Gulabpura as also the order impugned dated 2-5-2003 passed by the Executive Magistrate.

It is contended by the learned counsel for the petitioner that petitioner has not been convicted in any of the cases instituted against him; however, learned counsel submits that in Crime Reports No. 192/2002 and 49/2002, the petitioner has been acquitted on 25-3-2003 and 15-2-2003 respectively. Learned counsel submits that the petitioner cannot be said to be a "habitual offender" as defined under the Rajasthan Habitual Offenders Act, 1953 (for short, "the Act" hereinafter).

Section 2 of the Act provides that "habitual offender" means a person who, during any continuous period of five years, whether before or after the 15<sup>th</sup> day of September, 1952 or partly before and partly after the said date, has been sentenced on conviction on not less than three occasions since he attained the age of eighteen years to a substantive term of imprisonment for any one or more of the scheduled offences committed on different occasions and not so connected together as to form part parts of the same transaction, such sentence not having

been reversed in appeal or revision.

In the instant case, from the material on record, it appears that the Executive Magistrate directed the petitioner to be bound down under Section 110 of the Code, more particularly under Section 110 (e) of the Code, which provides that when a person habitually commits, or attempts to commit, or abets the commission of offence, involving a breach of the peace.

From the number of cases, the list of which has been filed by the learned counsel for the petitioner and the fact that the petitioner has not been convicted in any of the cases; the matter is of the year 2003 and the period of one year has by now elapsed, in my view no useful purpose would be served in allowing the proceeding to continue, particularly when the period as directed by the Executive Magistrate has also expired.

Consequently, the criminal miscellaneous petition is allowed and the proceedings under Section 110 of the Code initiated against the petitioner in Case No.59/2003 by the Executive Magistrate are quashed.

(H.R. PANWAR), J.

mcs